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Remarks:

Amendments to the claims:

Claims 32-48 are pending in this application. By this Amendment, claim 36 is amended to address a claim objection.

No new matter is added to the application by this Amendment.

Reconsideration of the application is respectfully requested.

Regarding the objection of claim 36 for allegedly informalities:

Applicants respectfully traverse the objection of the foregoing claim.

In response to the objection, claim 36 was amended to insert the word "agent" between the words "airborne" and "by" as suggested by the Patent Office. Applicants submit that the amendments to claim 22 overcome the claim objection as set forth in the Office Action.

Applicants respectfully request withdrawal of the objection to the claim.

Regarding the rejection of claims 32-34, 36-38, 40-44 and 46-48 under 35 USC 103(a) as allegedly being unpatentable over JP 2001-087370 (hereinafter "JP 370" in view of US 2004/0033171 to Kvietok et al. (hereinafter "Kvietok")):

Applicants respectfully traverse the Examiner's rejection of the indicated claims in view of JP 370 and Kvietok.

Prior to discussing the merits of the Patent Office's position, the undersigned reminds the Patent Office that the determination of obviousness under § 103(a) requires consideration of the factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1 [148 USPQ 459] (1966): (1) the scope and content of the prior art; (2) the differences between the

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claims and the prior art; (3) the level of ordinary skill in the pertinent art; and (4) secondary considerations, if any, of nonobviousness. *McNeil-PPC, Inc. v. L. Perrigo Co.*, 337 F.3d 1362, 1368, 67 USPQ2d 1649, 1653 (Fed. Cir. 2003). See also *KSR International Co. v. Teleflex Inc.*, 82 USPQ2D 1385 (U.S. 2007).

A methodology for the analysis of obviousness was set out in *In re Kotzab*, 217 F.3d 1365, 1369-70, 55 USPQ2d 1313, 1316-17 (Fed. Cir. 2000) A critical step in analyzing the patentability of claims pursuant to section 103(a) is casting the mind back to the time of invention, to consider the thinking of one of ordinary skill in the art, guided only by the prior art references and the then-accepted wisdom in the field. Close adherence to this methodology is especially important in cases where the very ease with which the invention can be understood may prompt one "to fall victim to the insidious effect of a hindsight syndrome wherein that which only the invention taught is used against its teacher."

It must also be shown that one having ordinary skill in the art would reasonably have expected any proposed changes to a prior art reference would have been successful. *Amgen, Inc. v. Chugai Pharmaceutical Co.*, 927 F.2d 1200, 1207, 18 USPQ2d 1016, 1022 (Fed. Cir. 1991); *In re O'Farrell*, 853 F.2d 894, 903-04, 7 USPQ2d 1673, 1681 (Fed. Cir. 1988); *In re Clinton*, 527 F.2d 1226, 1228, 188 USPQ 365, 367 (CCPA 1976). "Both the suggestion and the expectation of success must be founded in the prior art, not in the applicant's disclosure." *In re Dow Chem. Co.*, 837 F.2d 469, 473, 5 USPQ2d 1529, 1531 (Fed. Cir. 1988).

The Patent Office acknowledges that JP 370 fails to teach (a) that the air treatment device comprises a person sensor so as to detect a person within the range of the person sensor or (b) that the means to expel a portion of air treatment agent comprises a heater element where the heater element is actuated upon detection of the airborne agent by the airborne agent detector and detection of a person by the person sensor in order to increase the

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emanation of the air treatment agent and located proximate to a diffusion wick. The Patent Office alleges that it was known in the art at the time of the invention to provide a person sensor and a heater element as the means to expel a portion of air treatment agent in an air treatment device as allegedly taught by Kvietok. The Patent Office also alleges that it would have been obvious to one of ordinary skill in this art at the time of the invention to provide a person sensor and a heater element as the means for expelling an air treatment agent within a source of air treatment agent after receiving a signal from a detector in the device of JP 370 as a known alternate means to expel an air treatment agent in order to provide a portion of air treatment agent to the atmosphere as desired by a user as shown by Kvietok. Applicants respectfully disagree with the allegations by the Patent Office.

Independent claim 32 requires an air treatment device having a means to expel a portion of air treatment agent, upon detection of the airborne agent by the airborne agent detector and upon detection of a person by the person sensor, wherein, in use, a processor unit allows airborne treatment agent to be expelled in response to a signal from one or more of the airborne agent sensors, only when the person detector gives a signal and for an interval thereafter.

JP 370 teaches a container having a spraying means for acid odor components containing a neutralizing deodorant and a fan which takes in air into the container whereby odor sensors sense odor components in the air and in accordance with the signals of the odor sensors sprays odor components (see Abstract of JP 370). Kvietok teaches a device that may be configured to turn on and off in response to some stimulus, such as by sensors that respond to light, noise and/or motion (see paragraph [0056] of Kvietok). However, Kvietok also teaches (a) that a microprocessor can be used with motion sensors to turn on the device, (b) the device can be off all the time until a person moves in the vicinity of the motion sensor, and (c) the device can then turn on when a person walks in the vicinity of the motion sensor (see paragraph [0056] of Kvietok).

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Applicants submit that the device recited in independent claim 32 is not achieved by the mere combination of the features of JP 370 and Kvietok as alleged by the Examiner. The resulting combination of JP 370 and Kvietok achieves a device that expels airborne treatment agent every time either a sensor detected an airborne agent or a sensor detected a person (motion). Claim 32 is not directed to a device that expels airborne treatment agent every time an airborne agent is detected or a person (motion) is detected. Instead, claim 32 is directed to a device having a processor unit which allows airborne treatment agent to be expelled in response to a signal from one or more of the airborne agent sensors, only when the person detector gives a signal and for an interval thereafter.

A skilled artisan with the aim to improve the convenience of air treatment devices would not be motivated to modify the device of JP 370 with the teachings of Kvietok because the resulting combination (a device that expels airborne treatment agent every time either an airborne agent or a person is detected) would decrease convenience of air treatment devices by increasing the frequency of replacing depleted refills. In contrast, the presently claimed device operates with a negative feedback loop which ensures that the device is only operable when a processor unit of the device receives a signal from BOTH the airborne agent sensor AND the person sensor, whereby a signal from just of the airborne agent sensor or the person sensor is not sufficient to permit the expulsion of airborne treatment agent.

JP 370 and Kvietok, taken singly or in combination, fail to teach or suggest an air treatment device having a means to expel a portion of air treatment agent, upon detection of the airborne agent by the airborne agent detector and upon detection of a person by the person sensor, wherein, in use, a processor unit allows airborne treatment agent to be expelled in response to a signal from one or more of the airborne agent sensors, only when the person detector gives a signal and for an interval thereafter as required by claim 32.

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Because the features of independent claim 32 are not taught or suggested by JP 370 and Kvietok, taken singly or in combination, these references would not have rendered obvious the features specifically defined in claim 32.

In view of the foregoing, reconsideration and withdrawal of this rejection are respectfully requested.

Regarding the rejection of claims 32-34, 37, 38, 40-44 and 46-48 under 35 USC 103(a) as allegedly being unpatentable over JP 370 in view of US 5,735,918 to Barradas:
Applicants respectfully traverse the Examiner's rejection of the indicated claims in view of JP 370 and Barradas.

The Patent Office acknowledges that JP 370 fails to teach that the air treatment device comprises a person sensor where the processor unit allows airborne treatment agent to be expelled in response to a signal from one or more of the sensors, only when the person detector gives a signal and for an interval thereafter. The Patent Office alleges that it was known in the art at the time of the invention to provide a person detector in an air treatment device as allegedly taught by Barradas. The Patent Office also alleges that it would have been obvious to one of ordinary skill in this art at the time of the invention to provide a person detector in the device of JP 370 in order to provide the air treatment agent when a person is present in the vicinity of the device as taught by Barradas. Applicants respectfully disagree with the allegations by the Patent Office.

Barradas teaches a portable air treatment device having a sensor which activates the device upon movement of an individual in the vicinity of the device (see col. 1, lines 52-59 of Barradas). Barradas also teaches a scent container having a row of apertures or holes for passively permitting scent from a scent/aroma generating material to rise there-through and into the room (see col. 3, lines 26-29 of Barradas).

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Similar to the resulting combination of JP 370 and Kvietok, the resulting combination of JP 370 and Barradas may, at best, achieve a device that expels airborne treatment agent every time either a sensor detected an airborne agent or a sensor detected a person.

Claim 32 is not directed to a device that expels airborne treatment agent every time an airborne agent is detected or a person is detected. Instead, claim 32 requires a processor unit which allows airborne treatment agent to be expelled in response to a signal from one or more of the airborne agent sensors, only when the person detector gives a signal and for an interval thereafter.

A skilled artisan aimed at improving the convenience of air treatment devices would not be motivated to modify the device of JP 370 with the teachings of Barradas because the resulting combination (a device that expels airborne treatment agent every time either an airborne agent or a person is detected) would decrease convenience of air treatment devices by increasing the frequency of replacing depleted refills.

JP 370 and Barradas, taken singly or in combination, fail to teach or suggest an air treatment device having a means to expel a portion of air treatment agent, upon detection of the airborne agent by the airborne agent detector and upon detection of a person by the person sensor, wherein, in use, a processor unit allows airborne treatment agent to be expelled in response to a signal from one or more of the airborne agent sensors, only when the person detector gives a signal and for an interval thereafter as required by claim 32.

Because the features of independent claim 32 are not taught or suggested by JP 370 and Barradas, taken singly or in combination, these references would not have rendered obvious the features specifically defined in claim 32.

In view of the foregoing, reconsideration and withdrawal of this rejection are respectfully requested.

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Regarding the rejection of claim 35 under 35 USC 103(a) as being unpatentable over JP 370 in view of Kvietok or Barradas and further in view of US 4,084,732 to Dearling or US 5,364,027 to Kuhn:

The Applicants respectfully traverse the rejection of the foregoing claim in view of JP 370 further in view of Kvietok or Barradas and further in view of Dearling or Kuhn.

Dearling or Kuhn does not remedy the deficiencies of JP 370 in view of Kvietok or Barradas as described above with respect to claim 32, from which claim 35 depends, because Dearling and Kuhn also fail to teach a processor unit which allows airborne treatment agent to be expelled in response to a signal from one or more of the airborne agent sensors, only when the person detector gives a signal and for an interval thereafter.

Thus, JP 370, Kvietok, Barradas, Dearling and Kuhn, taken singly or in combination, fail to teach or suggest an air treatment device having a means to expel a portion of air treatment agent, upon detection of the airborne agent by the airborne agent detector and upon detection of a person by the person sensor, wherein, in use, a processor unit allows airborne treatment agent to be expelled in response to a signal from one or more of the airborne agent sensors, only when the person detector gives a signal and for an interval thereafter as recited in claim 32.

In view of the foregoing, reconsideration and withdrawal of this rejection are respectfully requested.

Regarding the rejection of claim 39 under 35 USC 103(a) as being unpatentable over JP 370 in view of Kvietok or Barradas and further in view of US 6,418,783 to Sunshine et al. (hereinafter "Sunshine"):

The Applicants respectfully traverse the rejection of the foregoing claim in view of JP 370 further in view of Kvietok or Barradas and further in view of Sunshine.

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Sunshine does not remedy the deficiencies of JP 370 in view of Kvietok or Barradas as described above with respect to claim 32, from which claim 39 depends, because Sunshine does not teach a processor unit which allows airborne treatment agent to be expelled in response to a signal from one or more of the airborne agent sensors, only when the person detector gives a signal and for an interval thereafter.

JP 370, Kvietok, Barradas and Sunshine, taken singly or in combination, fail to teach or suggest an air treatment device having a means to expel a portion of air treatment agent, upon detection of the airborne agent by the airborne agent detector and upon detection of a person by the person sensor, wherein, in use, a processor unit allows airborne treatment agent to be expelled in response to a signal from one or more of the airborne agent sensors, only when the person detector gives a signal and for an interval thereafter as recited in claim 32.

In view of the foregoing, reconsideration and withdrawal of this rejection are respectfully requested.

Regarding the rejection of claim 45 under 35 USC 103(a) as being unpatentable over JP 370 in view of Kvietok or Barradas and further in view of US 6,602,475 to Chiao:

The Applicants respectfully traverse the rejection of the foregoing claim in view of JP 370 further in view of Kvietok or Barradas and further in view of Chiao.

Chiao does not remedy the deficiencies of JP 370 in view of Kvietok or Barradas as described above with respect to claim 32, from which claim 45 depends because Chiao fails to teach or suggest a processor unit which allows airborne treatment agent to be expelled in response to a signal from one or more of the airborne agent sensors, only when the person detector gives a signal and for an interval thereafter.

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JP 370, Kvietok, Barradas and Chiao, taken singly or in combination, fail to teach or suggest an air treatment device having a means to expel a portion of air treatment agent, upon detection of the airborne agent by the airborne agent detector and upon detection of a person by the person sensor, wherein, in use, a processor unit allows airborne treatment agent to be expelled in response to a signal from one or more of the airborne agent sensors, only when the person detector gives a signal and for an interval thereafter as recited in claim 32.

In view of the foregoing, reconsideration and withdrawal of this rejection are respectfully requested.

Should the Examiner in charge of this application believe that telephonic communication with the undersigned would meaningfully advance the prosecution of this application, they are invited to call the undersigned at their earliest convenience.

The early issuance of a *Notice of Allowability* is solicited.

PETITION FOR A ONE-MONTH EXTENSION OF TIME

Applicants respectfully petition for a one-month extension of time in order to permit for the timely entry of this response. The Commissioner is hereby authorized to charge the fee to Deposit Account No. 14-1263 with respect to this petition.

CONDITIONAL AUTHORIZATION FOR FEES

Should any further fee be required by the Commissioner in order to permit the timely entry of this paper, the Commissioner is authorized to charge any such fee to Deposit Account No. 14-1263.

Respectfully Submitted;

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14 Sep 2009

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Enclosures – as indicated

CERTIFICATION OF TELEFAX TRANSMISSION:

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Allyson Ross

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